

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

FAYE USHER,)	
)	
Plaintiff,)	
)	
v.)	No. 4:17CV02516 AGF
)	
FIDELITY INFORMATION CORP., et al.,)	
)	
Defendants.)	
)	

MEMORANDUM AND ORDER

This is an action for damages under the Fair Credit Reporting Act. The matter is before the Court on Plaintiff's motion for default judgment against Defendant Fidelity Information Corp. ("Fidelity"), one of the two remaining Defendants in the case. The other remaining Defendant is Experian Information Solutions, Inc. ("Experian"). For the reasons set forth below, the motion will be denied without prejudice.

Plaintiff alleges that Fidelity, "a furnisher-subscriber," provided false credit information about Plaintiff to Experian, and failed to review all pertinent information and retract the allegedly false information. Experian is a credit reporting agency that Plaintiff alleges reported derogatory and inaccurate credit information about Plaintiff, in violation of the FCRA. Experian has filed an answer in the case, but Fidelity did not respond to the complaint, and on December 22, 2017, the Clerk of Court entered default against Fidelity. Plaintiff's current motion for default judgment seeks a judgment against Fidelity in the amount of \$23,300. The motion is supported by Plaintiff's affidavit that she suffered and continues "to suffer damages, as well as personal humiliation . . . and emotional distress," for which she is requesting \$1,000 for statutory damages, actual damages of

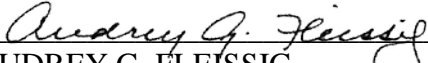
\$5,000, punitive damages of \$12,000, and \$5,300 for court costs and attorney's fees.

When co-defendants are similarly situated, inconsistent judgments may result if one defendant defends and prevails on the merits and the other suffers a default judgment. "To avoid such inconsistent results . . . the better practice is to stay the determination of damages against the defaulted defendant until plaintiff's claims against the remaining defendants are resolved." *F.F. Heating & Cooling, Inc. v. Lewis Mech. Servs.*, No. 4:09-CV-01496 CAS, 2010 WL 3720190, at *2 (E.D. Mo. Sept. 13, 2010) (declining to enter default judgment against one defendant in action for breach of contract where liability of similarly situated answering defendants was yet to be determined); *see also Shaunfield v. Paramount Recovery Sys.*, No. 3:12-CV-4686-M BH, 2014 WL 4814827, at *3 (N.D. Tex. Sept. 29, 2014) ("Where one of multiple defendants is in default, as a general rule, a decree of default may be entered, but a judgment is withheld pending a decision on the merits as to the other defendants."). Here, the claims against Fidelity and Experian are interconnected, with important operative facts underlying Plaintiff's claims.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's motion for default judgment against Defendant Fidelity Information Corp. is **DENIED without prejudice**. (ECF No. 17.)

Dated this 6th day of February, 2018.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE